



United States Department of the Interior

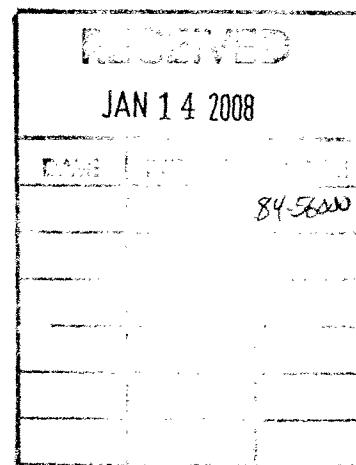
BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

IN REPLY

REF ID: **MP-440**

WTR-4.00

DEC 27 2007



Mr. Jean Sagouspe
President
Westlands Water District
P. O. Box 6056
Fresno, California 93703-6056

Subject: Interim Renewal Contract No. 14-06-200-495A-IR1 Between the United States and Westlands Water District (District) Providing for Project Water Service - Central Valley Project, California

Dear Mr. Sagouspe:

Enclosed is an executed original of the subject contract for your records. The District's efforts to expedite the execution of this contract were appreciated.

As a reminder, the attached Exhibit B reflects water rates through February 29, 2008. A new water rate Exhibit for the 2008 water year will be forwarded to the District that reflects rates effective for the period March 1, 2008, through February 28, 2009.

If there are any questions, please contact Mr. Richard Stevenson, Chief, Water Rights and Contracts Branch, at 916-978-5250.

Sincerely,

//S// JOHN F. DAVIS

John F. Davis
Acting Regional Director

Enclosure

cc: Mr. Thomas W. Birmingham
Manager-Attorney
Westlands Water District
P. O. Box 6056
Fresno, California 93703-6056

bc: Deputy Director, Office of Program and Policy Services, Denver, CO
Attention: 84-56000 (M. Kelly)
Assistant Solicitor, Water and Power Branch, Washington, DC
Regional Solicitor, Pacific Southwest Region, Sacramento, CA
Attention: Jim Turner
MP-440 (lab), SCC-440 (sc) (ea w/cy of encl.)
MP-3600 (w/original contract)

WBR:Aslaughter:lab:12/20/2007:916-978-5252:amunson:12/26/2007:ext. 5281
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Surname: MP-440, MP-400, MP-1150, MP-115, MP-105, MP-100

Irrigation and M&I
Contract No. 14-06-200-495A-IR1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
WESTLANDS WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
SAN LUIS UNIT AND DELTA DIVISION

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND WESTLANDS WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
SAN LUIS UNIT AND DELTA DIVISION

9 THIS CONTRACT, made this 27 day of December, 2008, in pursuance generally
10 of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including,
11 but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August
12 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 3, 1960
13 (74 Stat. 156), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
14 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
15 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF
16 AMERICA, hereinafter referred to as the United States, and the WESTLANDS WATER DISTRICT,
17 hereinafter referred to as the Contractor, a public agency of the State of California, duly organized,
18 existing, and acting pursuant to the laws thereof;

WITNESSETH, That:

EXPLANATORY RECITALS

21 [1st] WHEREAS, the United States has constructed and is operating the California Central
22 Valley Project (Project), for diversion, storage, carriage, distribution and beneficial use, for flood
23 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and

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24 restoration, generation and distribution of electric energy, salinity control, navigation and other
25 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the
26 San Joaquin River and their tributaries; and

27 [2nd] WHEREAS, the United States constructed the Delta Division Facilities, including the
28 San Luis Unit facilities (which include the San Luis Canal, the Coalinga Canal, the Pleasant Valley
29 Pumping Plant, and the Dos Amigos Pumping Plant), which will be used in part for the furnishing of
30 water to the Contractor pursuant to the terms of this Contract; and

31 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant to
32 California law for operation of the Project; and

33 [4th] WHEREAS, the terms and conditions pursuant to which Project Water is to be
34 delivered to the Contractor through December 31, 2007, are addressed in the Contract Between the
35 United States and Westlands Water District Providing for Water Service, dated June 5, 1963, and the
36 Stipulated Judgment in the lawsuit entitled Barcellos and Wolfsen, Inc., v. Westlands Water District,
37 Civ. No. F-79-106-EDP (E.D. Cal.), as consolidated with Westlands Water District v. United States
38 of America, Civ. No. F-81-245-EDP (E.D. Cal.), entered on December 30, 1986, hereinafter referred
39 to as the Existing Contract; and

40 [5th] WHEREAS, the United States and the Contractor have pursuant to
41 Subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered
42 into binding agreements identified as Binding Agreement No. 14-06-200-495A-BA, and Binding
43 Agreement No. CV 79-106-EDP-BA, which sets out the terms pursuant to which the Contractor

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44 agreed to renew the Existing Contract before the expiration date after completion of the
45 Programmatic Environmental Impact Statement (PEIS) and other appropriate environmental
46 documentation and negotiation of a renewal contract; and which also sets out the consequences of a
47 subsequent decision not to renew; and

48 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
49 Existing Contract following completion of appropriate environmental documentation, including the
50 PEIS, which was required by Section 3409 of the CVPIA, pursuant to the National Environmental
51 Policy Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the
52 CVPIA and the potential renewal of all existing contracts for Project Water; and

53 [7th] WHEREAS, rights of renewal of Existing Contract and to convert said contract to a
54 contract as provided by subsection (d), Section 9 of the Act of August 4, 1939 (53 Stat. 1187), are set
55 forth in said contract; and

56 [8th] WHEREAS, the United States has completed the PEIS, but since all the environmental
57 documentation necessary to execute a long-term renewal contract has not been completed, the
58 Contractor has requested an interim renewal contract pursuant to Section 3404(c)(1) of the CVPIA;
59 and

60 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
61 its obligations under the Existing Contract; and

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62 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
63 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
64 beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project
65 Water to be made available to it pursuant to this Contract; and

66 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
67 agricultural areas within California for more than 50 years, and is considered by the Contractor as an
68 essential portion of its water supply; and

69 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,
70 depend upon the continued availability of water, including water service from the Project; and

71 [12.1] WHEREAS, the United States Court of Appeals for the Ninth Circuit has held that
72 Section 1(a) of the San Luis Act, Public Law (P.L.) 86-488 (74 Stat. 156) imposes on the Secretary of
73 the Interior (Secretary) a duty to provide drainage service to the San Luis Unit; and

74 [12.2] WHEREAS, the Contractor and the Contracting Officer recognize that adequate
75 drainage service is required to maintain agricultural production within certain areas served with
76 Project Water made available under this Contract, and all renewals thereof; and

77 [12.3] WHEREAS, the Contracting Officer intends, to the extent appropriated funds are
78 available, to develop and implement effective solutions to drainage problems in the San Luis Unit; and

79 [12.4] WHEREAS, the Contracting Officer and the Contractor acknowledge that such
80 drainage solutions may involve actions not originally contemplated and/or the construction or use of
81 facilities, other than the San Luis Drain; that the Contractor is investing in drainage solutions for

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82 lands within its boundaries that should be considered by the Contracting Officer in determining
83 drainage solutions; and that the existing ratesetting policy as it relates to the allocation and collection
84 of drainage costs may require amendment to recognize those investments by the Contractor and other
85 relevant circumstances; and

86 [12.5] WHEREAS, the Department of the Interior (Interior), Bureau of Reclamation published
87 in June 2006 the San Luis Drainage Feature Re-evaluation Final Environmental Impact Statement,
88 which considers alternatives to provide agricultural drainage service to the San Luis Unit; and

89 [12.6] WHEREAS, on March 9, 2007, the Record of Decision was signed for the San Luis
90 Drainage Feature Re-evaluation Final Environmental Impact Statement identifying the retirement of
91 up to 194,000 acres of land from irrigated agricultural productions as the selected alternative; and

92 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
93 to pursue measures to improve water supply, water quality, and reliability of the Project for all Project
94 purposes; and

95 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
96 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
97 the Project as required by law; to guard reasonably against Project Water shortages; to achieve a
98 reasonable balance among competing demands for use of Project Water; and to comply with all
99 applicable environmental statutes, all consistent with the legal obligations of the United States
100 relative to the Project; and

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101 [14.1] WHEREAS, the parties intend by this Contract to develop a more cooperative
102 relationship in order to achieve their mutual goals; and

103 [15th] WHEREAS, the Contractor has utilized or may utilize transfers, contract assignments,
104 rescheduling and conveyance of Project Water and non-Project water under this Contract as tools to
105 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of water; and

106 [15.1] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
107 to the Contractor in continuing to carry out the beneficial activities set out in the Explanatory Recital
108 immediately above; and

109 [15.2] WHEREAS, in order to continue water service provided under Project water service
110 contracts that expire prior to the completion of the PEIS, the United States intends to execute interim
111 renewal contracts for a period not to exceed three (3) Years in length, and for successive interim
112 periods of not more than two (2) Years in length, until appropriate environmental documentation,
113 including the PEIS, is finally completed, at which time the Secretary shall, pursuant to Federal
114 Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period
115 of twenty-five (25) Years; and may thereafter renew such long-term renewal contracts for successive
116 periods not to exceed twenty-five (25) Years each; and

117 [15.3] WHEREAS, the Secretary intends to assure uninterrupted water service and continuity
118 of contract through the process set forth in Article 2 hereof; and

119 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
120 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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121 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
122 contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

124 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible
125 with the intent of the parties as expressed in this Contract, the term:

126 (a) "Calendar Year" shall mean the period January 1 through December 31, both dates
127 inclusive;

128 (b) "Charges" shall mean the payments required by Federal Reclamation law in
129 addition to the Rates as determined annually by the Contracting Officer pursuant to this Contract;

130 (c) "Condition of Shortage" shall mean a condition respecting the Project during
131 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract;

132 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized
133 representative acting pursuant to this Contract or applicable Federal Reclamation law or regulation;

134 (e) "Contract Total" shall mean the maximum amount of water to which the
135 Contractor is entitled under subdivision (a) of Article 3 of this Contract:

136 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
137 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,
138 which may be modified from time to time in accordance with Article 35 of this Contract without
139 amendment of this Contract;

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140 (g) "CVPIA" shall mean the Central Valley Project Improvement Act,
141 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);
142 (g) (1) "Delta Division Facilities" shall mean those existing and future Project
143 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the
144 C.W. "Bill" Jones Pumping Plant, the O'Neill Forebay, the O'Neill Pumping/Generating Plant, and
145 the San Luis Reservoir, used to divert, store, and convey water to those Project Contractors entitled to
146 receive water conveyed through the Delta-Mendota Canal;
147 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be
148 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
149 (96 Stat. 1263), as amended, hereinafter referred to as RRA;
150 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in
151 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
152 Reclamation law;
153 (j) Omitted.
154 (k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be
155 delivered in accordance with Section 204 of the RRA;
156 (l) Omitted.
157 (m) "Irrigation Water" shall mean water made available from the Project that is
158 used primarily in the production of agricultural crops or livestock, including domestic use incidental
159 thereto, and watering of livestock;

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160 (n) "Landholder" shall mean a party that directly or indirectly owns or leases
161 nonexempt land, as provided in 43 CFR 426.2;

162 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other than
163 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human
164 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are
165 kept for personal enjoyment or water delivered to landholdings operated in units of less than five
166 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of
167 water delivered to any such landholding is a use described in subdivision (m) of this Article;

168 (p) Omitted.

169 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
170 care, control, operation, repair, replacement (other than capital replacement), and maintenance of
171 Project facilities;

172 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their) successors
173 or assigns, which has (have) the obligation to operate and maintain all or a portion of the Delta
174 Division Facilities pursuant to written agreement(s) with the United States. When this Contract was
175 entered into, the Operating Non-Federal Entities were the San Luis and Delta-Mendota Water
176 Authority and, with respect to San Luis Unit facilities, the California Department of Water Resources,
177 and the Contractor;

178 (s) "Project" shall mean the Central Valley Project owned by the United States and
179 managed by the Department of the Interior, Bureau of Reclamation;

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180 (t) "Project Contractors" shall mean all parties who have water service contracts

181 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

182 (u) "Project Water" shall mean all water that is developed, diverted, stored, or

183 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance

184 with the terms and conditions of water rights acquired pursuant to California law;

185 (v) "Rates" shall mean the payments determined annually by the Contracting

186 Officer in accordance with the then current applicable water ratesetting policies for the Project, as

187 described in subdivision (a) of Article 7 of this Contract;

188 (w) Omitted.

189 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed

190 successor, or an authorized representative acting pursuant to any authority of the Secretary and

191 through any agency of the Interior;

192 (y) Omitted

193 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for

194 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

195 (aa) "Water Made Available" shall mean the estimated amount of Project Water

196 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,

197 pursuant to subdivision (a) of Article 4 of this Contract;

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198 (bb) "Water Scheduled" shall mean Project Water made available to the Contractor
199 for which times and quantities for delivery have been established by the Contractor and Contracting
200 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

201 (cc) "Year" shall mean the period from and including March 1 of each Calendar
202 Year through the last day of February of the following Calendar Year.

203 TERM OF CONTRACT - RIGHT TO USE OF WATER

204 2. (a) This Contract shall be effective from January 1, 2008 and shall remain in
205 effect through February 28, 2010, and thereafter will be renewed as described in this Article. Except
206 as provided in subdivision (b) of this Article, until completion of all appropriate environmental
207 review, and provided that the Contractor has complied with all the terms and conditions of the interim
208 renewal contract in effect for the period immediately preceding the requested successive interim
209 renewal contract, this Contract will be renewed, upon request of the Contractor, for successive
210 interim periods each of which shall be no more than two (2) Years in length. Also, except as
211 provided in subdivision (b) of this Article, in order to promote orderly and cost-effective contract
212 administration, the terms and conditions in subsequent interim renewal contracts shall be identical to
213 the terms and conditions in the interim renewal contract immediately preceding the subsequent
214 interim renewal contract: Provided, however, That each party preserves the right to propose
215 modification(s) in any interim renewal contract other than those described in subdivision (b) of this
216 Article, in which case the parties shall negotiate in good faith appropriate modification(s) to be
217 included in any successive interim renewal contracts. Said modification(s) of each successive interim

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218 renewal contract shall be agreed upon within a reasonable time prior to the expiration of the then
219 existing interim renewal contract. Nothing in this Article shall in any way alter the obligation that,
220 upon final completion of any necessary environmental documentation, the Secretary shall, pursuant to
221 Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a
222 period of twenty-five (25) Years and may thereafter renew such long-term renewal contracts for
223 successive periods not to exceed twenty-five (25) Years each.

224 (b) The parties have engaged and if necessary will continue to engage in
225 good faith negotiations intended to permit the execution of a twenty-five (25) Year long-term renewal
226 contract contemplated by Section 3404 (c) of the CVPIA, hereinafter referred to as a long-term
227 renewal contract. The parties recognize the possibility that this schedule may not be met without
228 further negotiations. Accordingly: In the event (i) the Contractor and Contracting Officer have
229 reached agreement on the terms of the Contractor's long-term renewal contract or (ii) the Contractor
230 and Contracting Officer have not completed the negotiations on the Contractor's long-term renewal
231 contract, believe that further negotiations on that contract would be beneficial, and mutually commit
232 to continue to negotiate to seek to reach agreement, but (iii) all environmental documentation
233 required to allow execution of the Contractor's long-term renewal contract by both parties has not
234 been completed in time to allow execution of the Contractor's long-term renewal contract by
235 February 28, 2010, then (iv), the parties will expeditiously complete the environmental
236 documentation required of each of them in order to execute the Contractor's long-term renewal
237 contract at the earliest practicable date. In addition, the Contractor's then current interim renewal

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238 contract will be renewed without change upon the request of either party through the agreed-upon
239 effective date of the Contractor's long-term renewal contract or, in the absence of agreement on the
240 terms of the Contractor's long-term renewal contract, through the succeeding February 28.

241 (c) The omission of language in this Contract providing for conversion of this
242 interim renewal contract or any subsequent renewals thereof to a repayment contract, pursuant to the
243 Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor's right to assert a right to have
244 such language included in subsequent renewals of this Contract or to exercise such conversion, all as
245 provided by law, or to negotiate the language regarding such conversion to be included in subsequent
246 renewal contracts.

247 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

248 3. (a) During each Year, consistent with all applicable State water rights permits, and
249 licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this Contract, the
250 Contracting Officer shall make available for delivery to the Contractor 1,150,000 acre-feet of Project
251 Water for irrigation and M&I purposes. Provided, however, during the two (2) month period of
252 January and February of Year, 2008, the Contracting Officer shall make available for delivery to the
253 Contractor that portion of the 2007 allocation of Project Water unused by the Contractor under the
254 Existing Contract. Water Delivered to the Contractor in accordance with this subdivision shall be
255 scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

256 (a) (1) Notwithstanding any other provisions of this Contract, in the event the
257 Secretary implements a program to retire land from irrigated agricultural production within the

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258 Contractor's Service Area as a means of addressing drainage in the San Luis Unit, the Contracting
259 Officer shall conduct a water needs assessment to determine whether the Contract Total will be
260 reduced. An initial water needs assessment shall be conducted upon the retirement of 25 percent of
261 the land projected to be retired under such land retirement program. Subsequent assessments shall be
262 conducted upon the retirement of 50 percent and 75 percent of the land projected to be retired and a
263 final assessment will be conducted at the conclusion of the land retirement program. Any water needs
264 assessment performed pursuant to this paragraph (1) shall update the water needs assessment used to
265 compute the quantity of Project Water to be made available under this Contract, which was submitted
266 to the Contractor on November 2, 2000, and shall be conducted pursuant to the methodology attached
267 to this Contract as Exhibit "C." The Contractor may request the Contracting Officer update the
268 methodology employed based upon Contractor-specific information made available to the
269 Contracting Officer by the Contractor. Upon completion of any water needs assessment performed
270 pursuant to this paragraph, the Contracting Officer may make a determination to reduce the quantity
271 of water to be made available under this Contract, and the Contract Total shall be reduced according
272 to that determination; Provided, so long as the then-existing Contract Total can be put to reasonable
273 and beneficial use as determined by the water needs assessment on Eligible Lands within the
274 Contractor's Service Area that are not retired, the retirement of land shall not affect the quantity of
275 Project Water to be made available pursuant to this Contract.

276 (b) Because the capacity of the Project to deliver Project Water has been
277 constrained in recent years and may be constrained in the future due to many factors including

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278 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
279 actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given
280 Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected that the
281 Contract Total set forth in this Contract will not be available to the Contractor in many years.
282 Nothing in this subdivision (b) of this Article shall affect the rights and obligations of the parties
283 under any provision of this Contract.

284 (c) The Contractor shall utilize the Project Water in accordance with all applicable
285 legal requirements.

286 (c) (1) In the event any Project Contractor (other than a Cross Valley
287 Contractor) that receives Project Water through the Delta Division Facilities obtains a contractual
288 agreement that the Contracting Officer shall make Project Water available at a point or points of
289 delivery in or north of the Delta, at the request of the Contractor and upon completion of any required
290 environmental documentation, this Contract shall be amended to provide for deliveries in or north of
291 the Delta on mutually agreeable terms. Such amendments to this Contract shall be limited solely to
292 those changes made necessary by the addition of such alternate points of delivery in or north of the
293 Delta; Provided, That the Contracting Officer's use of the Harvey O. Banks Pumping Plant to deliver
294 Project Water does not trigger this right of amendment.

295 (d) The Contractor shall make reasonable and beneficial use of all water furnished
296 pursuant to this Contract. Ground-water recharge programs (direct, indirect, or in lieu), ground-
297 water banking programs, surface water storage programs, and other similar programs utilizing Project

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298 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
299 Area which are consistent with applicable State law and result in use consistent with Federal
300 Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in
301 the Contractor's water conservation plan submitted pursuant to Article 26 of this Contract; Provided,
302 further, That such water conservation plan demonstrates sufficient lawful uses exist in the
303 Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is
304 demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law.
305 Ground-water recharge programs, ground-water banking programs, surface water storage programs,
306 and other similar programs utilizing Project Water or other water furnished pursuant to this Contract
307 conducted outside the Contractor's Service Area may be permitted upon written approval of the
308 Contracting Officer, which approval will be based upon environmental documentation, Project Water
309 rights, and Project operational concerns. The Contracting Officer will address such concerns in
310 regulations, policies, or guidelines.

311 (e) The Contractor shall comply with requirements applicable to the Contractor in
312 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
313 undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are
314 within the Contractor's legal authority to implement. The Existing Contract, which evidences in
315 excess of 40 years of diversions for irrigation and/or M&I purposes of the quantities of Project Water
316 provided in subdivision (a) of Article 3 of this Contract, will be considered in developing an
317 appropriate baseline for the biological assessment(s) prepared pursuant to the ESA, and any other

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318 needed environmental review. Nothing herein shall be construed to prevent the Contractor from
319 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
320 biological opinion or other environmental documentation referred to in this Article.

321 (f) Following the declaration of Water Made Available under Article 4 of this
322 Contract, the Contracting Officer will make a determination whether Project Water, or other water
323 available to the Project, can be made available to the Contractor in addition to the Contract Total
324 under this Article during the Year without adversely impacting other Project Contractors. At the
325 request of the Contractor, the Contracting Officer will consult with the Contractor prior to making
326 such a determination. If the Contracting Officer determines that Project Water, or other water
327 available to the Project, can be made available to the Contractor, the Contracting Officer will
328 announce the availability of such water and shall so notify the Contractor as soon as practical. The
329 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of
330 taking such water to determine the most equitable and efficient allocation of such water. If the
331 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
332 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,
333 and policies. Subject to existing interim renewal and long-term contractual commitments, water
334 rights and operational constraints, interim renewal and long-term Project Contractors shall have a first
335 right to acquire such water, including Project Water made available pursuant to Section 215 of the
336 RRA.

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337 (g) The Contractor may request permission to reschedule for use during the
338 subsequent Year some or all of the Water Made Available to the Contractor during the current Year,
339 referred to as "rescheduled water." The Contractor may request permission to use during the current
340 Year a quantity of Project Water which may be made available by the United States to the Contractor
341 during the subsequent Year referred to as "preuse." The Contracting Officer's written approval may
342 permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

343 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
344 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the
345 term thereof and any subsequent interim renewal contracts, as described in Article 2 of this Contract,
346 during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its
347 obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall
348 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of
349 Article 12 of this Contract or applicable provisions of any subsequent interim renewal contracts.

354 (j) The Contracting Officer shall make reasonable efforts to protect the water
355 rights necessary for the Project and to provide the water available under this Contract and any renewal
356 thereof. The Contracting Officer shall not object to participation by the Contractor, in the capacity

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357 and to the extent permitted by law, in administrative proceedings related to the Project Water rights;
358 Provided, that the Contracting Officer retains the right to object to the substance of the Contractor's
359 position in such a proceeding; Provided, further, That in such proceedings the Contracting Officer
360 shall recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

361 TIME FOR DELIVERY OF WATER

362 4. (a) On or about February 20 each Calendar Year, the Contracting Officer shall
363 announce the Contracting Officer's expected declaration of the Water Made Available. Such
364 declaration will be expressed in terms of Water Made Available and will be updated monthly, and
365 more frequently if necessary, based on the then-current operational and hydrologic conditions and a
366 new declaration with changes, if any, to the Water Made Available will be made. The Contracting
367 Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant
368 supporting information, upon the written request of the Contractor.

369 (b) On or before each March 1 and at such other times as necessary, the Contractor
370 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
371 showing the monthly quantities of Project Water to be delivered by the United States to the
372 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
373 Officer shall use all reasonable means to deliver Project Water according to the approved schedule for
374 the Year commencing on such March 1.

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375 (c) The Contractor shall not schedule Project Water in excess of the quantity of
376 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's
377 Service Area or to sell, transfer, or exchange pursuant to Article 9 of this Contract during any Year.

378 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
379 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
380 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
381 revision(s) thereto satisfactory to the Contracting Officer, submitted within a reasonable time prior to
382 the date(s) on which the requested change(s) is (are) to be implemented.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

384 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
385 Contract shall be delivered to the Contractor at Project facilities and any additional point or points of
386 delivery either on Project facilities or another location or locations mutually agreed to in writing by
387 the Contracting Officer and the Contractor.

392 (c) The Contractor shall deliver Irrigation Water in accordance with any applicable
393 land classification provisions of Federal Reclamation law and the associated regulations. The

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394 Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless
395 approved in advance by the Contracting Officer.

396 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
397 measured and recorded with equipment furnished, installed, operated, and maintained by the
398 Contracting Officer either directly or indirectly through its written agreements(s) with the Operating
399 Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the Contracting
400 Officer at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon
401 the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be
402 investigated by the appropriate Operating Non-Federal Entity(ies) the accuracy of such measurements
403 and shall take any necessary steps to adjust any errors appearing therein. For any period of time when
404 accurate measurements have not been made, the Contracting Officer shall consult with the Contractor
405 and the appropriate Operating Non-Federal Entity(ies), if any, prior to making a final determination of
406 the quantity delivered for that period of time.

407 (e) Absent a separate contrary written agreement with the Contractor, neither the
408 Contracting Officer nor any Operating Non-Federal Entity(ies) shall be responsible for the control,
409 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
410 Contract beyond the point or points of delivery established pursuant to subdivision (a) of this Article.
411 The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on
412 account of damage or claim of damage of any nature whatsoever for which there is legal
413 responsibility, including property damage, personal injury, or death arising out of or connected with

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414 the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such
415 point or points of delivery except for any damage or claim arising out of: (i) acts or omissions of the
416 Contracting Officer or any of its officers, employees, agents, and assigns, including the Operating
417 Non-Federal Entity(ies) with the intent of creating the situation resulting in any damage or claim;
418 (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, and
419 assigns, including the Operating Non-Federal Entity(ies); (iii) negligence of the Contracting Officer
420 or any of its officers, employees, agents, and assigns including the Operating Non-Federal Entity(ies);
421 (iv) a malfunction of facilities owned and/or operated by the United States or the Operating
422 Non-Federal Entity(ies); or (v) failure of the United States, its officers, employees, agents, and
423 assigns, including the Operating Non-Federal Entity(ies), to provide drainage service.

424 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

425 6. (a) The Contractor has established a measuring program satisfactory to the
426 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation
427 purposes within the Contractor's Service Area is measured at each agricultural turnout and such water
428 delivered for M&I purposes is measured at each M&I service connection. The water measuring
429 devices or water measuring methods of comparable effectiveness must be acceptable to the
430 Contracting Officer. The Contractor shall be responsible for installing, operating, maintaining, and
431 repairing all such measuring devices and implementing all such water measuring methods at no cost
432 to the United States. The Contractor shall use the information obtained from such water measuring
433 devices or water measuring methods to ensure its proper management of the water; to bill water users

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434 for water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes
435 by customer class as defined in the Contractor's water conservation plan provided for in Article 26 of
436 this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing
437 and collecting any charges, assessments, or other revenues authorized by California law. The
438 Contractor shall include a summary of all its annual surface water deliveries in the annual report
439 described in subdivision (c) of Article 26 of this Contract.

440 (b) To the extent the information has not otherwise been provided, upon execution
441 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the
442 measurement devices or water measuring methods being used or to be used to implement subdivision
443 (a) of this Article and identifying the agricultural turnouts and the M&I service connections or
444 alternative measurement programs approved by the Contracting Officer, at which such measurement
445 devices or water measuring methods are being used, and, if applicable, identifying the locations at
446 which such devices and/or methods are not yet being used including a time schedule for
447 implementation at such locations. The Contracting Officer shall advise the Contractor in writing
448 within 60 days as to the adequacy and necessary modifications, if any, of the measuring devices or
449 water measuring methods identified in the Contractor's report and if the Contracting Officer does not
450 respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the
451 Contractor that the measuring devices or methods are inadequate, the parties shall within 60 days
452 following the Contracting Officer's response, negotiate in good faith the earliest practicable date by
453 which the Contractor shall modify said measuring devices and/or measuring methods as required by

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454 the Contracting Officer to ensure compliance with subdivision (a) of this Article.

455 (c) All new surface water delivery systems installed within the Contractor's
456 Service Area after the effective date of this Contract shall also comply with the measurement
457 provisions described in subdivision (a) of this Article.

458 (d) The Contractor shall inform the Contracting Officer and the State of California
459 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
460 Contractor's Service Area during the previous Year.

461 (e) The Contractor shall inform the Contracting Officer and the Operating
462 Non-Federal Entity(ies) on or before the 20th calendar day of each month of the quantity of Irrigation
463 Water and M&I Water taken during the preceding month.

464 RATES AND METHOD OF PAYMENT FOR WATER

465 7. (a) The Contractor shall pay the United States as provided in this Article for all
466 Delivered Water at Rates and Charges established in accordance with: (i) the Secretary's ratesetting
467 policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for
468 M&I Water. Such ratesetting policies shall be amended, modified, or superseded only through a
469 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules
470 and regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be
471 made by cash transaction, electronic funds transfer, or any other mechanism as may be agreed to in
472 writing by the Contractor and the Contracting Officer. The Rates and Charges applicable to the
473 Contractor upon execution of this Contract are set forth in Exhibit "B," as may be revised annually.

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474 (b) The Contracting Officer shall notify the Contractor of the Rates and Charges as
475 follows:

476 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
477 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
478 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
479 the basis for such estimate. The Contractor shall be allowed not less than two months to review and
480 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
481 Officer shall notify the Contractor in writing of the Charges to be in effect during the period
482 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and
483 such notification shall revise Exhibit "B."

484 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
485 make available to the Contractor an estimate of the Rates for Project Water for the following Year
486 and the computations and cost allocations upon which those Rates are based. The Contractor shall be
487 allowed not less than two months to review and comment on such computations and cost allocations.
488 By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the
489 final Rates to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

490 (c) At the time the Contractor submits the initial schedule for the delivery of
491 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
492 shall make an advance payment to the United States equal to the total amount payable pursuant to the
493 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be

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494 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
495 of the first month and before the end of each calendar month thereafter, the Contractor shall make an
496 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
497 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
498 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
499 for Water Delivered shall be made before the end of the following month; Provided, That any revised
500 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
501 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
502 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
503 to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered
504 to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the
505 Contractor, no additional Project Water shall be delivered to the Contractor unless and until an
506 advance payment at the Rates then in effect for such additional Project Water is made. Final
507 adjustment between the advance payments for the Water Scheduled and payments for the quantities
508 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
509 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water
510 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by the
511 last day of February.

512 (d) The Contractor shall also make a payment in addition to the Rate(s) in
513 subdivision (c) of this Article to the United States for Water Delivered, at the Charges then in effect.

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514 before the end of the month following the month of delivery. The payments shall be consistent with
515 the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery report for
516 the subject month prepared by the Operating Non-Federal Entity(ies) or, if there is no Operating
517 Non-Federal Entity, by the Contracting Officer. The water delivery report shall be deemed a bill for
518 the payment of Charges for Water Delivered. Adjustment for overpayment or underpayment of
519 Charges shall be made through the adjustment of payments due to the United States for Charges for
520 the next month. Any amount to be paid for past due payment of Charge shall be computed pursuant
521 to Article 20 of this Contract.

522 (e) The Contractor shall pay for any Water Delivered under subdivision (a), (f), or
523 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
524 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
525 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall
526 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision
527 (a) of this Article.

528 (f) Payments to be made by the Contractor to the United States under this Contract
529 may be paid from any revenues available to the Contractor.

530 (g) All revenues received by the United States from the Contractor relating to the
531 delivery of Project Water or the delivery of non-Project water through Project facilities shall be
532 allocated and applied in accordance with Federal Reclamation law and the associated rules or
533 regulations, and the then-current Project ratesetting policies for M&I Water or Irrigation Water.

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534 (h) The Contracting Officer shall keep its accounts pertaining to the administration
535 of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal
536 standards, so as to reflect the application of Project costs and revenues. The Contracting Officer
537 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all
538 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues,
539 and a summary of all water delivery information. The Contracting Officer and the Contractor shall
540 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,
541 reports, or information.

549 (j) Omitted.

550 (k) For the term of this Contract, Rates applied under the respective ratesetting
551 policies will be established to recover only reimbursable O&M (including any deficits) and capital
552 costs of the Project, as those terms are used in the then-current Project ratesetting policies, and
553 interest, where appropriate, except in instances where a minimum Rate is applicable in accordance

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554 with the relevant Project ratesetting policy. Changes of significance in practices which implement the
555 Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has
556 provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed
557 change.

558 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
559 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates, in
560 accordance with the applicable Project ratesetting policy, adjusted upward or downward to reflect the
561 changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred Project
562 Water to the transferee's point of delivery. If the Contractor is receiving lower Rates and Charges
563 because of inability to pay and is transferring Project Water to another entity whose Rates and
564 Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project Water
565 shall not be adjusted to reflect the Contractor's inability to pay.

566 (m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
567 Officer is authorized to adjust determinations of ability to pay every five years.

568 NON-INTEREST BEARING O&M DEFICITS

569 8. The Contractor and the Contracting Officer concur that, as of the effective date of this
570 Contract the Contractor has no non-interest bearing O&M deficits and shall have no further liability
571 therefore.

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572

SALES, TRANSFERS, OR EXCHANGES OF WATER

573 9. (a) The right to receive Project Water provided for in this Contract may be sold,
574 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
575 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
576 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
577 Contract may take place without the prior written approval of the Contracting Officer, except as
578 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be
579 approved absent all appropriate environmental documentation, including, but not limited to,
580 documents prepared pursuant to the NEPA and ESA. Such environmental documentation should
581 include, as appropriate, an analysis of ground-water impacts and economic and social effects,
582 including environmental justice, of the proposed water transfers on both the transferor and transferee.

583 (b) In order to facilitate efficient water management by means of water transfers of
584 the type historically carried out among Project Contractors located within the same geographical area
585 and to allow the Contractor to participate in an accelerated water transfer program during the term of
586 this Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental
587 documentation, including, but not limited to, documents prepared pursuant to the NEPA and ESA,
588 analyzing annual transfers within such geographical areas and the Contracting Officer shall determine
589 whether such transfers comply with applicable law. Following the completion of the environmental
590 documentation, such transfers addressed in such documentation shall be conducted with advance
591 notice to the Contracting Officer, but shall not require prior written approval by the Contracting

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592 Officer. Such environmental documentation and the Contracting Officer's compliance determination
593 shall be reviewed every five years and updated, as necessary, prior to the expiration of the then
594 existing five-year period. All subsequent environmental documentation shall include an alternative to
595 evaluate not less than the quantity of Project Water historically transferred within the same
596 geographical area.

597 (c) For a water transfer to qualify under subdivision (b) of this Article, such water
598 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years, for
599 M&I use, ground-water recharge, ground-water banking, or similar groundwater activities, surface
600 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
601 established cropland, wildlife refuges, ground-water basins, or M&I use; (ii) occur within a single
602 Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing
603 facilities with no new construction or modifications to facilities and be between existing Project
604 Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply
605 with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of
606 the environment and Indian Trust Assets, as defined under Federal law.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

608 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
609 capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
610 the Contractor arising out of this Contract then due and payable. Overpayments of more than \$1,000
611 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment, at

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612 the option of the Contractor, may be credited against amounts to become due to the United States by
613 the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole
614 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the
615 Project Water supply provided for herein. All credits and refunds of overpayments shall be made
616 within 30 days of the Contracting Officer obtaining direction as to how to credit or refund such
617 overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year
618 in which the overpayment was made.

619 (b) All advances for miscellaneous costs incurred for work requested by the
620 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the
621 work has been completed. If the advances exceed the actual costs incurred, the difference will be
622 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
623 be billed for the additional costs pursuant to Article 25 of this Contract.

624 TEMPORARY REDUCTIONS--RETURN FLOWS

625 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
626 requirements of Federal law, and (ii) the obligations of the United States under existing contracts, or
627 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make
628 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this
629 Contract.

630 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may temporarily
631 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the

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632 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
633 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
634 feasible the Contracting Officer or Operating Non-Federal Entity(ies) will give the Contractor due
635 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in
636 which case no notice need be given; Provided, That the United States shall use its best efforts to avoid
637 any discontinuance or reduction in such service. Upon resumption of service after such reduction or
638 discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the
639 quantity of Project Water which would have been delivered hereunder in the absence of such
640 discontinuance or reduction.

641 (c) The United States reserves the right to all seepage and return flow water
642 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
643 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States
644 any right to seepage or return flow being put to reasonable and beneficial use pursuant to this
645 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
646 under the Contractor.

647 CONSTRAINTS ON THE AVAILABILITY OF WATER

648 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable
649 means to guard against a Condition of Shortage in the quantity of water to be made available to the
650 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition

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651 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination
652 as soon as practicable.

653 (b) If there is a Condition of Shortage because of errors in physical operations of
654 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
655 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision
656 (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its
657 officers, agents, or employees for any damage, direct or indirect, arising therefrom.

658 (c) In any Year in which there may occur a Condition of Shortage for any of the
659 reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this Article, the
660 Contracting Officer will first allocate the available Project Water consistent with the Project M&I
661 Water Shortage in its form applicable under Article 12(c) of water service contracts in effect on the
662 date of this contract which provide water service from Delta Division Facilities for determining the
663 amount of Project Water Available for delivery to the Project Contractors. Subject to the foregoing
664 allocation, in any year in which there may occur a Condition of Shortage, the Contracting Officer
665 shall then apportion Project Water among the Contractor and others entitled to Project Water from
666 Delta Division Facilities under long-term water service or repayment contracts (or renewals thereof or
667 binding commitments therefore) in force on February 28, 2005, as follows:

668 (1) The Contracting Officer shall make an initial and subsequent
669 determination as necessary of the total quantity of Project Water estimated to be scheduled or actually
670 scheduled under subdivision (b) of Article 4 of this Contract and under all other interim renewal,

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671 long-term water service or repayment contracts then in force for the delivery of Project Water by the
672 United States from Delta Division Facilities during the relevant Year, the quantity so determined
673 being hereinafter referred to as the scheduled total;

674 (2) A determination shall be made of the total quantity of Project Water
675 that is available for meeting the scheduled total, the quantity so determined being hereinafter referred
676 to as the available supply;

677 (3) The total quantity of Project Water estimated to be scheduled or
678 actually scheduled by the Contractor during the relevant Year, under subdivision (b) of Article 4
679 hereof, shall be divided by the scheduled total, the quotient thus obtained being hereinafter referred to
680 as the Contractor's proportionate share; and

681 (4) The available supply shall be multiplied by the Contractor's
682 proportionate share and the result shall be the quantity of Project Water made available by the
683 United States to the Contractor for the relevant Year in accordance with the schedule developed by
684 the Contracting Officer under subdivision (c) (1) of this Article 12, but in no event shall such amount
685 exceed the Contract Total. In the event the Contracting Officer subsequently determines that the
686 Contracting Officer can increase or needs to decrease the available supply for delivery from Delta
687 Division Facilities to interim renewal, long-term water service, and repayment contractors during the
688 relevant Year, such additions or reductions to the available supply shall be apportioned consistent
689 with subparagraphs (1) through (4), inclusive.

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690 (d) By entering into this Contract, the Contractor does not waive any legal rights or
691 remedies it may have to file or participate in any administrative or judicial proceeding contesting
692 (i) the sufficiency of the Project M&I Water Shortage Policy; (ii) the substance of such a policy;
693 (iii) the applicability of such a policy; or (iv) the manner in which such policy is implemented in order
694 to allocate Project Water between M&I and irrigation purposes; Provided, That the Contractor has
695 commenced any such judicial challenge or any administrative procedures necessary to institute any
696 judicial challenge within six months of the policy becoming final. By agreeing to the foregoing, the
697 Contracting Officer does not waive any legal defenses or remedies that it may have to assert in such a
698 proceeding. Nothing contained herein shall be interpreted to validate or invalidate the Project M&I
699 Water Shortage Policy.

700 (e) Omitted.

UNAVOIDABLE GROUND-WATER PERCOLATION

702 13. To the extent applicable, the Contractor shall not be deemed to have delivered
703 Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands
704 are irrigated with ground water that reaches the underground strata as an unavoidable result of the
705 delivery of Irrigation Water by the Contractor to Eligible Lands.

RULES AND REGULATIONS

707 14. The parties agree that the delivery of Irrigation Water or use of Federal facilities
708 pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the RRA
709 (43 U.S.C.390 aa et seq.). as amended and supplemented, and the rules and regulations promulgated
710 by the Secretary under Federal Reclamation law.

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711

WATER AND AIR POLLUTION CONTROL

712 15. The Contractor, in carrying out this Contract, shall comply with all applicable water
713 and air pollution laws and regulations of the United States and the State of California, and shall
714 obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

715

QUALITY OF WATER

716 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to
717 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
718 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
719 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986
720 (100 Stat. 3050) or other existing Federal laws. The United States is under no obligation to construct
721 or furnish water treatment facilities to maintain or to improve the quality of Water Delivered to the
722 Contractor pursuant to this Contract. The United States does not warrant the quality of Water
723 Delivered to the Contractor pursuant to this Contract.

724 (b) The O&M of Project facilities shall be performed in such manner as is
725 practicable to maintain the quality of raw water made available through such facilities at the highest
726 level reasonably attainable as determined by the Contracting Officer. The Contractor shall be
727 responsible for compliance with all Federal and State water quality standards applicable to surface
728 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor
729 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

730 (c) The Contracting Officer shall notify the Contractor in writing when drainage
731 service becomes available. Thereafter, the Contracting Officer shall provide drainage service to the
732 Contractor at rates established pursuant to the then-existing ratesetting policy for Irrigation Water;

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733 Provided, That such ratesetting policy shall be amended, modified, or superseded only through the
734 process described in subdivision (a) of Article 7 of this Contract.

735 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED STATES

736 17. (a) Water or water rights now owned or hereafter acquired by the Contractor other
737 than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may
738 be simultaneously transported through the same distribution facilities of the Contractor subject to the
739 following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were
740 constructed without funds made available pursuant to Federal Reclamation law, the provisions of
741 Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation
742 Water; (ii) the eligibility of land to receive Irrigation Water must be established through the
743 certification requirements as specified in the Acreage Limitation Rules and Regulations
744 (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area
745 can be established and the quantity of Irrigation Water to be utilized is less than or equal to the
746 quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling
747 Irrigation Water and non-Project water are (were) constructed with funds made available pursuant to
748 Federal Reclamation law, the non-Project water will be subject to the acreage limitation provisions of
749 Federal Reclamation law, unless the Contractor pays to the United States the incremental fee
750 described in 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will
751 calculate annually the cost to the Federal Government, including interest, of storing or delivering non-
752 Project water, which for purposes of this Contract shall be determined as follows: The quotient shall

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753 be the unpaid distribution system costs divided by the total irrigable acreage within the Contractor's
754 Service Area. The incremental fee per acre is the mathematical result of such quotient times the
755 interest rate determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263). Such
756 incremental fee will be charged to each acre of excess or full-cost land within the Contractor's
757 Service Area that receives non-Project water through Federally-financed or -constructed facilities.
758 The incremental fee calculation methodology will continue during the term of this Contract absent the
759 promulgation of a contrary Reclamation-wide rule, regulation, or policy adopted after the Contractor
760 has been afforded the opportunity to review and comment on the proposed rule, regulation, or policy.
761 If such rule, regulation, or policy is adopted, it shall supersede this provision.

762 (b) Water or water rights now owned or hereafter acquired by the Contractor, other
763 than from the United States may be stored, conveyed, and/or diverted through Project facilities,
764 subject to the completion of appropriate environmental documentation, with the approval of the
765 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
766 necessary, consistent with the following provisions:

767 (1) The Contractor may introduce non-Project water into Project facilities
768 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
769 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an
770 appropriate rate as determined by the applicable Project ratesetting policy, the RRA, and the Project
771 use power policy, if such Project use power policy is applicable, each as amended, modified, or
772 superseded from time to time.

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778 (3) Neither the United States nor the Operating Non-Federal Entity(ies)
779 shall be responsible for control, care or distribution of the non-Project water before it is introduced
780 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
781 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their
782 respective officers, agents, and employees, from any claim for damage to persons or property, direct
783 or indirect, resulting from the act(s) of the Contractor, its officers, employees, agents, or assigns, in
784 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project water
785 into Project facilities.

786 (4) Diversion of such non-Project water into Project facilities shall be
787 consistent with all applicable laws, and if involving ground water, consistent with any applicable
788 ground-water management plan for the area from which it was extracted.

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793 remaining capacity being made available to non-Project contractors. Other Project Contractors shall
794 have a second priority to any remaining capacity of facilities declared to be available by the
795 Contracting Officer for conveyance and transportation of non-Project water prior to any such
796 remaining capacity being made available to non-Project contractors.

797 OPINIONS AND DETERMINATIONS

798 18. (a) Where the terms of this Contract provide for actions to be based upon the
799 opinion or determination of either party to this Contract, said terms shall not be construed as
800 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
801 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
802 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
803 unreasonable opinion or determination. Each opinion or determination by either party shall be
804 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall
805 affect or alter the standard of judicial review applicable under Federal law to any opinion or
806 determination implementing a specific provision of Federal law embodied in statute or regulation.

807 (b) The Contracting Officer shall have the right to make determinations necessary
808 to administer this Contract that are consistent with the provisions of this Contract, the laws of the
809 United States and of the State of California, and the rules and regulations promulgated by the
810 Secretary. Such determinations shall be made in consultation with the Contractor to the extent
811 reasonably practicable.

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812

COORDINATION AND COOPERATION

813 19. (a) In order to further their mutual goals and objectives, the Contracting Officer
814 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
815 affected Project Contractors, in order to improve the O&M of the Project. The communication,
816 coordination, and cooperation regarding O&M shall include, but not be limited to, any action which
817 will or may materially affect the quantity or quality of Project Water supply, the allocation of Project
818 Water supply, and Project financial matters including, but not limited to, budget issues. The
819 communication, coordination, and cooperation provided for hereunder shall extend to all provisions
820 of this Contract. Each party shall retain exclusive decision making authority for all actions, opinions,
821 and determinations to be made by the respective party.

822 (b) Within 120 days following the effective date of this Contract, the Contractor,
823 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
824 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
825 amended as necessary separate and apart from this Contract. The goal of this process shall be to
826 provide, to the extent practicable, the means of mutual communication and interaction regarding
827 significant decisions concerning Project O&M on a real-time basis.

828 (c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract,
829 it is the intent of the Secretary to improve water supply reliability. To carry out this intent:
830 (1) The Contracting Officer will, at the request of the Contractor, assist in
831 the development of integrated resource management plans for the Contractor. Further, the

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832 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
833 improve water supply, water quality, and reliability.

834 (2) The Secretary will, as appropriate, pursue program and project
835 implementation and authorization in coordination with Project Contractors to improve the water
836 supply, water quality, and reliability of the Project for all Project purposes.

837 (3) The Secretary will coordinate with Project Contractors and the State of
838 California to seek improved water resource management.

839 (4) The Secretary will coordinate actions of agencies within the
840 Department of the Interior that may impact the availability of water for Project purposes.

841 (5) The Contracting Officer shall periodically, but not less than annually,
842 hold division-level meetings to discuss Project operations, division-level water management
843 activities, and other issues as appropriate.

844 (d) Without limiting the contractual obligations of the Contracting Officer under
845 the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the
846 Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other
847 interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, or
848 the physical integrity of structures or facilities.

CHARGES FOR DELINQUENT PAYMENTS

850 20. (a) The Contractor shall be subject to interest, administrative, and penalty charges
851 on delinquent installments or payments. When a payment is not received by the due date, the
852 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
853 When a payment becomes 60 days delinquent, the Contractor shall pay an administrative charge to

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854 cover additional costs of billing and processing the delinquent payment. When a payment is
855 delinquent 90 days or more, the Contractor shall pay an additional penalty charge of six percent per
856 year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay
857 any fees incurred for debt collection services associated with a delinquent payment.

858 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
859 the Federal Register by the Department of the Treasury for application to overdue payments, or the
860 interest rate of one-half of one percent per month prescribed by Section 6 of the Reclamation Project
861 Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and
862 remain fixed for the duration of the delinquent period.

863 (c) When a partial payment on a delinquent account is received, the amount
864 received shall be applied, first to the penalty, second to the administrative charges, third to the
865 accrued interest, and finally to the overdue payment.

866 EQUAL OPPORTUNITY

867 21. During the performance of this Contract, the Contractor agrees as follows:

868 (a) The Contractor will not discriminate against any employee or applicant for
869 employment because of race, color, religion, sex, or national origin. The Contractor will take
870 affirmative action to ensure that applicants are employed, and that employees are treated during
871 employment, without regard to their race, color, religion, sex, or national origin. Such action shall
872 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
873 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
874 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
875 conspicuous places, available to employees and applicants for employment, notices to be provided by
876 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

877 (b) The Contractor will, in all solicitations or advertisements for employees placed
878 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for
879 employment without discrimination because of race, color, religion, sex, or national origin.

880 (c) The Contractor will send to each labor union or representative of workers with
881 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
882 provided by the Contracting Officer, advising the said labor union or workers' representative of the
883 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
884 shall post copies of the notice in conspicuous places available to employees and applicants for
885 employment.

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886 (d) The Contractor will comply with all provisions of Executive Order
887 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of
888 the Secretary of Labor.

889 (e) The Contractor will furnish all information and reports required by said
890 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
891 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer
892 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
893 regulations, and orders.

894 (f) In the event of the Contractor's noncompliance with the nondiscrimination
895 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
896 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible
897 for further Government contracts in accordance with procedures authorized in said amended
898 Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said
899 Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided
900 by law.

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

911 22. (a) The obligation of the Contractor to pay the United States as provided in this
912 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation
913 may be distributed among the Contractor's water users and notwithstanding the default of individual
914 water users in their obligations to the Contractor.

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919 made available pursuant to this Contract for lands or parties which are in arrears in the advance
920 payment of water rates levied or established by the Contractor.

921 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
922 obligation to require advance payment for water rates which it levies.

923 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

924 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
925 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
926 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), and any other applicable civil rights laws, as
927 well as with their respective implementing regulations and guidelines imposed by the United States
928 Department of the Interior and/or Reclamation.

929 (b) These statutes require that no person in the United States shall, on the grounds
930 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
931 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
932 financial assistance from Reclamation. By executing this Contract, the Contractor agrees to
933 immediately take any measures necessary to implement this obligation, including permitting officials
934 of the United States to inspect premises, programs, and documents.

935 (c) The Contractor makes this agreement in consideration of and for the purpose of
936 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
937 assistance extended after the date hereof to the Contractor by Reclamation, including installment
938 payments after such date on account of arrangements for Federal financial assistance, which were
939 approved before such date. The Contractor recognizes and agrees that such Federal assistance will be
940 extended in reliance on the representations and agreements made in this Article, and that the United
941 States reserves the right to seek judicial enforcement thereof.

942 PRIVACY ACT COMPLIANCE

943 24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the
944 Act) and the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in maintaining
945 Landholder acreage certification and reporting records, required to be submitted to the Contractor for
946 compliance with Sections 206 and 228 of the RRA (96 Stat. 1266), and pursuant to 43 CFR 426.18.

947 (b) With respect to the application and administration of the criminal penalty
948 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible
949 for maintaining the certification and reporting records referenced in (a) above are considered to be
950 employees of the Department of the Interior (See 5 U.S.C. 552a(m)).

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951 (c) The Contracting Officer or a designated representative shall provide the
952 Contractor with current copies of the Interior Department Privacy Act regulations and Reclamation
953 Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior,
954 Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information
955 contained in the Landholder's certification and reporting records.

956 (d) The Contracting Officer shall designate a full-time employee of Reclamation to
957 be the System Manager who shall be responsible for making decisions on denials pursuant to
958 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to
959 grant requests by individuals for access to their own records.

960 (e) The Contractor shall forward promptly to the System Manager each proposed
961 denial of access under 43 CFR 2.64; and each request for amendment of records filed under
962 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with
963 information and records necessary to prepare an appropriate response to the requester. These
964 requirements do not apply to individuals seeking access to their own certification and reporting forms
965 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy
966 Act as a basis for the request.

967 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

968 25. In addition to all other payments to be made by the Contractor pursuant to this
969 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
970 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
971 direct cost incurred by the United States for work requested by the Contractor associated with this
972 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
973 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
974 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
975 administration.

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976

WATER CONSERVATION

977 26. (a) Prior to the delivery of water provided from or conveyed through Federally-
978 constructed or Federally-financed facilities pursuant to this Contract, the Contractor shall be
979 implementing an effective water conservation and efficiency program based on the Contractor's water
980 conservation plan that has been determined by the Contracting Officer to meet the conservation and
981 efficiency criteria for evaluating water conservation plans established under Federal law. The water
982 conservation and efficiency program shall contain definite water conservation objectives, appropriate
983 economically feasible water conservation measures, and time schedules for meeting those objectives.
984 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
985 continued implementation of such water conservation program. In the event the Contractor's water
986 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
987 this Article 26 have not yet been determined by the Contracting Officer to meet such criteria, due to
988 circumstances which the Contracting Officer determines are beyond the control of the Contractor,
989 water deliveries shall be made under this Contract so long as the Contractor diligently works with the
990 Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the
991 Contractor immediately begins implementing its water conservation and efficiency program in
992 accordance with the time schedules therein.

993 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
994 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement the
995 Best Management Practices identified by the time frames issued by the California Urban Water

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996 Conservation Council for such M&I Water unless any such practice is determined by the Contracting
997 Officer to be inappropriate for the Contractor.

998 (c) The Contractor shall submit to the Contracting Officer a report on the status of
999 its implementation of the water conservation plan on the reporting dates specified in the then-existing
1000 conservation and efficiency criteria established under Federal law.

1001 (d) At five-year intervals, the Contractor shall revise its water conservation plan to
1002 reflect the then-current conservation and efficiency criteria for evaluating water conservation plans
1003 established under Federal law and submit such revised water management plan to the Contracting
1004 Officer for review and evaluation. The Contracting Officer will then determine if the water
1005 conservation plan meets Reclamation's then-current conservation and efficiency criteria for
1006 evaluating water conservation plans established under Federal law.

1007 (e) If the Contractor is engaged in direct ground-water recharge, such activity shall
1008 be described in the Contractor's water conservation plan.

1009 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1010 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1011 Contract shall not be applicable to or affect non-Project water or water rights now owned or hereafter
1012 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
1013 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
1014 be construed as limiting or curtailing any rights which the Contractor or any water user within the

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1015 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
1016 Reclamation law.

1017 O&M BY THE SAN LUIS AND DELTA-MENDOTA WATER AUTHORITY

1018 28. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
1019 responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis
1020 and Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement
1021 (8-07-20-X0354) between the United States and Operating Non-Federal Entity San Luis and Delta-
1022 Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or
1023 obligations of the Contractor or the United States hereunder.

1024 (b) The Contracting Officer has previously notified the Contractor in writing that
1025 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to
1026 Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, and therefore, the
1027 Contractor shall pay directly to Operating Non-Federal Entity San Luis and Delta-Mendota Water
1028 Authority, or to any successor approved by the Contracting Officer under the terms and conditions of
1029 the separate agreement between the United States and Operating Non-Federal Entity San Luis and
1030 Delta-Mendota Water Authority, described in subdivision (a) of this Article, all rates, charges, or
1031 assessments of any kind, including any assessment for reserve funds, which Operating Non-Federal
1032 Entity San Luis and Delta-Mendota Water Authority, or such successor determines, sets, or
1033 establishes for the O&M of the portion of the Project facilities operated and maintained by Operating
1034 Non-Federal Entity San Luis and Delta-Mendota Water Authority, or such successor. Such direct

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1035 payments to Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, or such
1036 successor shall not relieve the Contractor of its obligation to pay directly to the United States the
1037 Contractor's share of the Project Rates and Charges except to the extent the Operating Non-Federal
1038 Entity collects payments on behalf of the United States in accordance with subdivision (a) of this
1039 Article.

1040 (c) For so long as the O&M of any portion of the Project facilities serving the
1041 Contractor is performed by Operating Non-Federal Entity San Luis and Delta-Mendota Water
1042 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
1043 Rates for Water Delivered under this Contract representing the cost associated with the activity being
1044 performed by Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, or its
1045 successor.

1046 (d) In the event the O&M of the Project facilities operated and maintained by
1047 Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority is re-assumed by the
1048 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
1049 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
1050 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs
1051 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,
1052 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates and
1053 Charges specified in the revised Exhibit "B" directly to the United States in compliance with Article 7
1054 of this Contract.

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1055 O&M BY THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

1056 28.1 (a) The O&M of a portion of the Project facilities which serve the Contractor, and
1057 responsibility for funding a portion of the costs of such O&M, have been transferred to the California
1058 Department of Water Resources, an Operating Non-Federal Entity by a separate agreement
1059 (14-06-200-9755) between the United States and Operating Non-Federal Entity California
1060 Department of Water Resources. This separate agreement shall not interfere with or affect the rights
1061 or obligations of the Contractor or the United States hereunder.

1062 (b) The Contracting Officer has previously notified the Contractor in writing that
1063 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to
1064 Operating Non-Federal Entity California Department of Water Resources, and the Contractor shall
1065 pay directly to Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, or to any
1066 successor approved by the Contracting Officer under the terms and conditions of the separate
1067 agreement between the United States and Operating Non-Federal Entity San Luis and Delta-Mendota
1068 Water Authority, described in subdivision (a) of Article 28 of this Contract, all rates, charges, or
1069 assessments of any kind, including any assessment for reserve funds, which Operating Non-Federal
1070 Entity California Department of Water Resources, or such successor determines, sets, or establishes
1071 for the O&M conveyance and conveyance pumping portion of the Project facilities operated and
1072 maintained by Operating Non-Federal Entity California Department of Water Resources, or such
1073 successor. Such direct payments to Operating Non-Federal Entity San Luis and Delta-Mendota Water
1074 Authority, or such successor shall not relieve the Contractor of its obligation to pay directly to the

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1075 United States the Contractor's share of the Project Rates and Charges except to the extent the
1076 Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority collects payments on
1077 behalf of the United States in accordance with the separate agreement identified in subdivision (a) of
1078 Article 28 of this Contract.

1079 (c) For so long as the O&M of any portion of the Project facilities serving the
1080 Contractor is performed by Operating Non-Federal Entity California Department of Water Resources,
1081 or any successor thereto, the Contracting Officer shall adjust those components of the Rates for Water
1082 Delivered under this Contract representing the cost associated with the activity being performed by
1083 Operating Non-Federal Entity California Department of Water Resources, or its successor.

1084 (d) In the event the O&M of the Project facilities operated and maintained by
1085 Operating Non-Federal Entity California Department of Water Resources is re-assumed by the
1086 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
1087 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
1088 Rates and Charges, to be paid by the Contractor for Project Water under this Contract representing the
1089 O&M costs of the portion of such Project facilities which have been re-assumed. The Contractor
1090 shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary,
1091 pay the Rates and Charges specified in the revised Exhibit "B" directly to the United States in
1092 compliance with Article 7 of this Contract.

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1093

O&M BY THE CONTRACTOR

1094

28.2 (a) During the term of this Contract, the Contractor shall act as the Operating
1095 Non-Federal Entity for a portion of the Project facilities which serves the Department of Fish and
1096 Game, the City of Huron, and the City of Coalinga, including but not limited to the Coalinga Canal
1097 System, which consists in part of the Coalinga Canal and turnouts and Pleasant Valley Pumping
1098 Plant. The Contractor, without expense to the United States, shall care for, operate, and maintain
1099 such portion of the Project facilities for the furnishing of water to the Department of Fish and Game,
1100 the City of Huron, and the City of Coalinga in full compliance with Federal Reclamation law and in
1101 such manner that they will remain in good and efficient condition; Provided, That the United States
1102 shall finance the costs of all major replacements of such facilities that the Contracting Officer
1103 determines are needed; Provided further, That if the Department of Fish and Game, the City of Huron,
1104 or the City of Coalinga fails to pay to the Contractor in advance such entity's share of the O&M costs,
1105 consistent with any agreements between the Contractor and the Department of Fish and Game, the
1106 City of Huron, or the City of Coalinga, respectively, the Contractor shall be relieved of its obligation
1107 to the O&M of such facilities for the benefit of the non-paying entity.

1108

(b) The Contracting Officer previously notified the Department of Fish and Game,
1109 the City of Huron, and the City of Coalinga in writing that the O&M of a portion of the Project
1110 facilities which serves the Department of Fish and Game, the City of Huron, and the City of Coalinga
1111 has been transferred to the Contractor. Therefore, the Department of Fish and Game and the City of
1112 Huron have entered, and the City of Coalinga is expected to enter, separate agreements with the

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1113 Contractor providing the terms and conditions pursuant to which the Contractor will operate and
1114 maintain a portion of the Project facilities which serves the Department of Fish and Game, the City of
1115 Huron, and the City of Coalinga, including the amount(s) the Department of Fish and Game, the City
1116 of Huron, and the City of Coalinga are to pay the Contractor for that service. Consistent with any
1117 such agreements, the Department of Fish and Game, the City of Huron, and the City of Coalinga shall
1118 pay directly to the Contractor all rates, charges, or assessments of any kind, including any assessment
1119 for reserve funds, which the Contractor sets, or establishes for a portion of the Project facilities which
1120 serves the Department of Fish and Game, the City of Huron, and the City of Coalinga and is operated
1121 and maintained by the Contractor. Such direct payments to the Contractor shall not relieve the
1122 Contractor of its obligation to pay directly to the United States the Department of Fish and Game, the
1123 City of Huron, and the City of Coalinga its share of the Project Rates and Charges referred to in this
1124 Contract.

1125 (c) For so long as the O&M for a portion of the Project facilities which serves the
1126 Department of Fish and Game, the City of Huron, and the City of Coalinga is performed by the
1127 Contractor, the Contracting Officer shall adjust those components of the Rates for Water Delivered
1128 under the Contracts representing the cost associated with the activity being performed by the
1129 Contractor.

1130 (d) The United States may re-assume O&M for a portion of the Project facilities
1131 which serves the Department of Fish and Game, the City of Huron, and the City of Coalinga. In that
1132 event, the Contracting Officer shall so notify the Department of Fish and Game, the City of Huron,

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1133 and the City of Coalinga, in writing, and present to the Contractor a revised Exhibit "B" which shall
1134 include the portion of the Rates and Charges to be paid by the Department of Fish and Game, the City
1135 of Huron, and the City of Coalinga for Project Water under this Contract representing the O&M costs
1136 for a portion of the Project facilities which serves the Department of Fish and Game, the City of
1137 Huron, and the City of Coalinga. The Department of Fish and Game, the City of Huron, and the City
1138 of Coalinga shall, thereafter, in the absence of written notification from the Contracting Officer to the
1139 contrary, pay the Rates and Charges specified in the revised Exhibit "B" directly to the United States
1140 in compliance with Article 7 of their contracts. The Contractor shall, thereafter, be relieved of all of
1141 its obligations under this Article 28.2.

1142 PUMPING PLANTS, POWER FOR PUMPING PLANTS, AND TRANSFER
1143 OF O&M TO THE CONTRACTOR

1144 28.3. (a) The United States shall furnish and install pumping plants and furnish the
1145 amount of Project power the Contracting Officer determines is necessary to deliver Project Water to
1146 the Contractor from the Delta-Mendota, San Luis, and Coalinga Canals, including the Pleasant Valley
1147 Pumping Plant, at the point(s) of delivery identified pursuant to subdivision (a) of Article 5 of this
1148 Contract at heads and elevations sufficient to irrigate by gravity the areas within the Contractor's
1149 Service Area below 700 feet mean sea level elevation.

1150 (b) With advance approval of the Contracting Officer, the Contractor may, at its
1151 own expense, furnish and install pumping facilities, and related electrical equipment, to enable it to
1152 divert and deliver Project Water from the Delta-Mendota, San Luis, and Coalinga Canals and the
1153 Pleasant Valley Pumping Plant before the United States furnishes and installs all the pumping plants

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1154 referred to in subdivision (a) of this Article. The United States shall furnish the amount of Project
1155 power needed to operate such pumping facilities; Provided, That the Contractor maintains an
1156 agreement with an entity to convey such power to such facilities, and the Contractor agrees to pay any
1157 and all charges assessed by that entity for such service.

1158 (c) The furnishing of power by the United States shall be in conformance with
1159 operating criteria, rules, and regulations, including the project use power policy, established by the
1160 Contracting Officer; Provided, That any such operating criteria, rules, and regulations, including the
1161 project use power policy, established by the Contracting Officer shall not excuse the United States
1162 from its obligation under subdivision (a) of this Article. Such operating criteria, rules, and
1163 regulations shall be developed in cooperation with the Contractor and shall be based on acceptable
1164 irrigation management practices and the power generation capacity available to the United States for
1165 the furnishing of Project Water to the Contractor.

1166 (d) The Contractor hereby agrees to operate and maintain, at its own expense, all
1167 of the pumping facilities described in subdivisions (a) and (b) of this Article in such a manner that
1168 remain in good and efficient condition; Provided, That the United States shall finance the costs of all
1169 major replacements that the Contracting Officer determines are needed.

1170 (e) The Contracting Officer or his representative shall at all times have access to
1171 and may inspect and investigate the pumping facilities for the purpose of ascertaining if they are
1172 being kept in safe and proper operating condition.

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(f) No change in any of the pumping facilities, which in the opinion of the
fficer is substantial, shall be made by the Contractor without first obtaining the written
Contracting Officer. The Contractor shall promptly make any and all repairs and
o the pumping facilities which in the opinion of the Contracting Officer are necessary.
e Contractor neglects or fails to make such repairs and replacements or in the event of
e United States of the pumping facilities pursuant to subdivision (g) of this Article, the
may cause the repairs and replacements to be made and the cost thereof, as determined
ting Officer, shall be paid by the Contractor to the United States upon notice of the
ut not later than April 1 of the year following that during which such work was

1183 (g) In the event the Contracting Officer determines that the Contractor has not
1184 properly cared for, operated, and maintained said pumping facilities or has failed to comply with any
1185 of the provisions of this Article, then at the election of the Contracting Officer the United States may
1186 take over from the Contractor the care and O&M of the pumping facilities by giving written notice to
1187 the Contractor of such election and the effective date thereof. Thereafter, during the period of
1188 operation by the United States, the Contractor shall pay to the United States in advance of the use of
1189 such pumping facilities the Contractor's share of the cost of O&M thereof and replacements
1190 therefore, as fixed in notices from the Contracting Officer. In the event such advances are inadequate
1191 to properly care for, operate, and maintain the pumping facilities to the end of any year, the
1192 Contracting Officer may give written notice of a supplemental O&M charge and the Contractor shall

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1193 pay such amount on or before the date specified in said notice. Any amount of such advances
1194 remaining unexpended or unobligated, at the option of the Contractor, either shall be refunded or
1195 credited upon amounts to become due to the United States from the Contractor under the provisions
1196 of this Contract in subsequent years. The pumping facilities so taken back by the United States may
1197 be returned to the Contractor upon the furnishing to the Contractor of a written 90-day notice of
1198 intention to retransfer.

1199 (h) The Contractor shall hold the United States, its officers, and employees
1200 harmless from every and all claim for damages to persons or property arising out of or connected with
1201 the Contractor's O&M of the pumping facilities referred to in this Article; Provided, That nothing
1202 contained herein shall be construed as an assumption of liability by the Contractor to parties other
1203 than the United States with respect to such matters.

1204 (i) During the time the pumping facilities are operated and maintained by the
1205 Contractor, in addition to all other payments to be made by the Contractor under this Contract, the
1206 Contractor shall pay to the United States pursuant to Article 25 hereof, costs incurred by the
1207 United States for work associated with the pumping facilities under this Contract normally charged by
1208 the United States to water users and properly and equitably chargeable to the Contractor.

1209 (j) The Contracting Officer may make review of any part or all of the pumping
1210 facilities being operated by the Contractor pursuant to this Article to assist the Contractor in assessing
1211 the condition of facilities and the adequacy of the maintenance program(s). The Contracting Officer
1212 shall prepare reports based on the examinations, inspections or audits, and furnish copies of such

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1213 reports and any recommendations to the Contractor. The Contractor shall reimburse the actual cost
1214 incurred by the United States in making O&M examinations, inspections, and audits, and preparing
1215 associated reports and recommendations.

1216 (k) If deemed necessary by the Contracting Officer or requested by the Contractor,
1217 special inspections of the pumping facilities being operated by the Contractor and of the Contractor's
1218 books and records may be made to ascertain the extent of any O&M deficiencies, to determine the
1219 remedial measures required for their correction, and to assist the Contractor in solving specific
1220 problems. Any special inspection or audit shall, except in a case of emergency, be made after written
1221 notice to the Contractor and the actual cost thereof shall be paid by the Contractor to the United
1222 States.

1223 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1224 29. The expenditure or advance of any money or the performance of any obligation of the
1225 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1226 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1227 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1228 or allotted.

1229 BOOKS, RECORDS, AND REPORTS

1230 30. (a) The Contractor shall establish and maintain accounts and other books and
1231 records pertaining to administration of the terms and conditions of this Contract including: the
1232 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1233 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1234 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1235 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1236 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1237 during office hours to examine and make copies of the other party's books and records relating to
1238 matters covered by this Contract.

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1239 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1240 records, or other information shall be requested from the Contractor by the Contracting Officer unless
1241 such books, records, or information are reasonably related to the administration or performance of
1242 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
1243 to provide the requested books, records, or information.

1244 (c) At such time as the Contractor provides information to the Contracting Officer
1245 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1246 Operating Non-Federal Entity (ies).

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1248 31. (a) The provisions of this Contract shall apply to and bind the successors and
1249 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1250 therein shall be valid until approved in writing by the Contracting Officer.

1251 (b) The assignment of any right or interest in this Contract by either party shall not
1252 interfere with the rights or obligations of the other party to this Contract absent the written
1253 concurrence of said other party.

1254 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1255 of any proposed assignment.

SEVERABILITY

1257 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1258 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1259 association or other form of organization whose primary function is to represent parties to Project
1260 contracts, brings an action in a court of competent jurisdiction challenging the legality or

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1261 enforceability of a provision included in this Contract and said person, entity, association, or
1262 organization obtains a final court decision holding that such provision is legally invalid or
1263 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1264 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
1265 decision identify by mutual agreement the provisions in this Contract which must be revised and
1266 (ii) within three months thereafter promptly agree on the appropriate revision(s). The time periods
1267 specified above may be extended by mutual agreement of the parties. Pending the completion of the
1268 actions designated above, to the extent it can do so without violating any applicable provisions of
1269 law, the United States shall continue to make the quantities of Project Water specified in this Contract
1270 available to the Contractor pursuant to the provisions of this Contract which were not found to be
1271 legally invalid or unenforceable in the final court decision.

1272 RESOLUTION OF DISPUTES

1273 33. Should any dispute arise concerning any provisions of this Contract, or the parties'
1274 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1275 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1276 any matter to the Department of Justice, the party shall provide to the other party 30 days' written
1277 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
1278 in commencing an action would prejudice the interests of the party that intends to file suit. During
1279 the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in an

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1280 attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or
1281 abridge any right or remedy that the Contractor or the United States may have.

1282 OFFICIALS NOT TO BENEFIT

1283 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1284 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1285 manner as other water users or landowners.

1286 CHANGES IN CONTRACTOR'S SERVICE AREA

1287 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1288 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
1289 except upon the Contracting Officer's written consent.

1290 (b) Within 30 days of receipt of a request for such a change, the Contracting
1291 Officer will notify the Contractor of any additional information required by the Contracting Officer
1292 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
1293 timely completion of the process. Such process will analyze whether the proposed change is likely to:
1294 (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the
1295 Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-
1296 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project
1297 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with
1298 the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the Contracting
1299 Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

1300 FEDERAL LAWS

1301 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1302 validity or application in connection with the performance of the terms and conditions of this

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1303 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1304 terms and conditions of this Contract unless and until relief from application of such Federal law or
1305 regulation to the implementing provision of the Contract is granted by a court of competent
1306 jurisdiction.

1307 NOTICES

1308 37. Any notice, demand, or request authorized or required by this Contract shall be
1309 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1310 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721,
1311 and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1312 Directors of the Westlands Water District, P.O. Box 6056, Fresno, California 93703-6056. The
1313 designation of the addressee or the address may be changed by notice given in the same manner as
1314 provided in this Article for other notices.

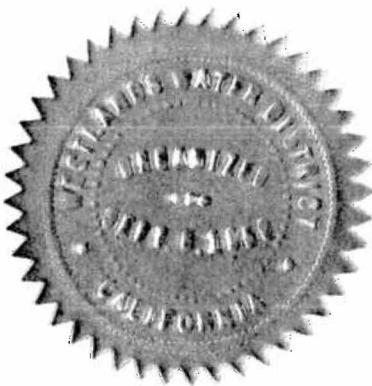
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1315 IN WITNESS WHEREOF, the parties hereto have executed this Interim Renewal Contract as
1316 of the day and year first above written.

1317
1318

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

1319 OFFICE OF REGIONAL SOLICITOR
1320 DEPARTMENT OF THE INTERIOR



THE UNITED STATES OF AMERICA

1321 By:

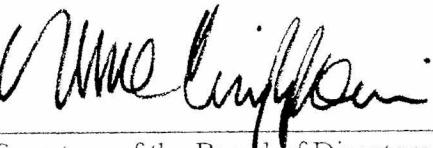
1322 
John G. Davis
1323 Regional Director, Mid-Pacific Region
Bureau of Reclamation

1324 WESTLANDS WATER DISTRICT

1325 By:

1326 Attest:


Frank R. Chapman
President of the Board of Directors

1327 By: 
1328 Secretary of the Board of Directors